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THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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November 27, 1996

Dockets Unit (DHM-30)
Office of Hazardous Materials Safety,
Research and Special Programs Administration
US. Department of Transportation
Washington, D.C. 20590-0001

DEPT. OF TRANSPORTATION
DOCKET SECTION
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Dear Sir or Madam:

The Associated General Contractors of America (AGC) is a national association representing 33,000 construction related businesses including 7,800 of the nation's leading general contracting firms. Many AGC members transport and handle hazardous materials in the course of construction activities. These members will be impacted by any changes in regulations pertaining to hazardous materials loading, unloading and storage. In reference to the advance notice of proposed rulemaking which appeared in the July 29, 1996 Federal Register, AGC welcomes the opportunity to comment on the proposals.

AGC was represented at the public meetings held in Atlanta, Georgia and Sacramento, California regarding these proposals. The following comments are in response to the notice and input of our representatives at those meetings.

AGC believes that:

- Agencies with enforcement and fining authority should have well defined boundaries as to when and where such authority begins and ends. No two agencies should have authority at the same time. For example, DOT should always have authority during transport, but no two agencies should have simultaneous authority during handling, loading and unloading.
- DOT Regulations should not extend from birth to grave for hazardous materials, but rather only to the time period when these materials are being shipped.
- DOT should set standards for packaging, shipping, and identifying hazardous material that will be shipped by means available to the public or on public rights-of-way.

- DOT should have primary jurisdiction of hazardous material while it is being moved on public rights-of-way. OSHA should have primary jurisdiction over the manufacture, loading, storage, unloading and use of hazardous materials. EPA should have primary jurisdiction only in the event of an accident or incident that threatens the environment. Not more than one agency should be able to cite an incident, even if more than one agency claims jurisdiction.
- DOT, OSHA, EPA and others who assume authority should be required to recognize, accept, and conform to one standard that may overlap but does not contradict. Local authorities could propose local regulations but they would become effective at the pleasure of the overall rulemaking body.
- The regulations should be easy to read and understand. The ordinary person who operates a business should not have to spend more than a few minutes determining what applies to him or her. Enforcement Officers should be able to quickly and easily explain the regulations and answer all relevant questions or address any likely situation.
- Definitions should be complete, accurate, and applicable. Words like shipper, offer, issue, commerce, storage, transportation, transporter, loading and many others should be defined. (For example, AGC's representative at the Atlanta meeting noted that "storage" can be defined or construed in several ways.)

AGC encourages clarity and fairness in any changes to these regulations. I urge you to consider AGC's comments in developing the final regulations.

Sincerely,


Stuart C. Megaw
Director
Municipal-Utilities Division